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The Levels of Participation for Men and Women in Resolving Community Conflicts Using ADR Mechanisms in Kapsokwony Sub- County, Bungoma County, Kenya

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The Levels of Participation for Men and Women in Resolving Community Conflicts Using ADR Mechanisms in Kapsokwony Sub-County, Bungoma County, Kenya

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Abstract

Purpose: This article outlines the levels of participation of men and women in resolving community conflicts using Alternative Dispute Resolution (ADR) mechanisms in Kapsokwony, Kenya. It highlights that ADR are currently considered participatory and inclusive processes to resolve community conflicts as they offer men and women a major stake in conflict resolution in society due to their roles and positions in society.

Methodology: Findings across the globe confirm that when men and women equally participate in resolution of community conflicts there is increased likelihood of reaching an agreement and of the longevity of the agreement. This implies that for effective ADR, the participation of both men and women would be crucial. The study was based on a mixed research method whose methodology involved research survey, interview and Focus Group Discussions. In consideration of the fact that gender equality is strongly advocated for in conflict resolution, the study sought to establish the situation in Kapsokwony. The study therefore sought to assess the levels of men's and women's participation in ADR mechanisms in Kapsokwony.

Results: The study established that power was a factor that influenced the level of participation. Consequently, the level was simply established to be that of neutral/passive to a very high participation level of women participation in ADR mechanism. However, those that were participating at high levels in ADR were few and their power was invested in the office they held. Furthermore, the study established that in the Nyumba Kumi structure, women level of participation in conflict resolution was increasing from neutral/neutral to a higher level of participation where they fully participated in leading and influencing decisions on resolution of

conflicts. This can be explained because the nature of the Nyumba Kumi structure allows for everyone to be actively involved in ensuring safety and welfare of the ten households' members. Urban Thinkers Campus (2015) confirms that women are involved in ensuring safety in urban and rural settlements mainly through the Nyumba Kumi Initiative in which they are part of the leadership committee.

Unique contribution to theory, policy, and practice: Alternative Dispute Resolution mechanisms help in creating an environment that fosters development, peace, and social justice amongst other positive values amidst community conflicts. The United Nations (2007) Declaration on the Rights of Indigenous People advocates for equal participation of men and women in the management of community conflicts. Participation of both men and women in ADR processes to resolve community conflicts in Kapsokwony Sub-county region is a field that studies have not adequately explored. This study hopes to contribute to existing literature on men's and women's participation in ADR for land disputes. The outcome of this study may be utilized to influence increased participation of women in ADR, within Kapsokwony Sub-county region. Additionally, the study's findings will add to the growing body of literature pertaining to the participation of both men and women in peace building within the Kenyan context. Lastly, the findings of this study form the foundation upon which future research can be done.

Keywords: *Gender equality, Participation, Alternative Dispute Resolution, conflict Resolution.*

INTRODUCTION

Every human society experience conflict in one way or another, and it is therefore, important that there is a systematic dispute resolution approach to address them. Conflicts affect development negatively and, in many cases, formal approaches that have been used to manage them have not been as effective as they ought to be (Antonia, 2012). These conflict resolution mechanisms are not only increasingly inaccessible to the poor due to legal technicalities, high costs, and complex procedures, but also, they have delays (Bunni, 2015). In addition, there are gender disparities as more men than women are involved in formal court processes. This has necessitated a shift towards informal and more inclusive conflict management processes such as traditional dispute resolution mechanism (Muigai, 2017).

These informal processes are referred to as Alternative Dispute Resolution (ADR) mechanisms. Shamir (2011) posits that, ADR comprises of various approaches for resolving disputes in a non-confrontational way ranging from negotiations between two parties, a multi-party negotiation, through mediation, consensus building, to arbitration and adjudication.

The Constitution of Kenya, 2010 recognizes application of ADR mechanisms in dispute resolution for efficient dispensation of justice. The Constitution therefore establishes a strong elaborate human rights framework embodying the fundamental rights and freedoms entitled to the citizens.

To achieve this, the Constitution dedicates an entire Chapter on human rights, that is, Chapter Four which embodies the Bill of Rights (Muigai, 2017). Article 159 of the Kenyan Constitution stipulates that in exercise of the judicial authority, courts and tribunals are to promote alternative forms of dispute resolutions including reconciliation, mediation, arbitration, and traditional dispute resolution mechanisms. While ADR mechanisms are normally considered participatory and inclusive, the reality however is that they are male dominated. Findings from studies carried out across the global confirm that men continue to have upper hand over women with regards to participation in conflict resolution using ADR mechanisms. Is this also the case in Kapsokwony, in Kenya? It is against this background that this study was carried out to determine the levels of men's and women's participation in resolutions of community conflicts using ADR mechanisms.

Statement of the Problem

ADR mechanisms are currently considered participatory and inclusive processes to resolve community conflicts as they offer men and women a major stake in conflict resolution in society due to their roles and positions in society. Also as indicated earlier, women consistently bridge divides to build coalitions for peace and if both men and women are fully involved in the peace process, there is increased likelihood of reaching an agreement and of the longevity of the agreement. This implies that for effective ADR, the participation of both men and women would be crucial.

Like any society, Kapsokwony sub-county in Bungoma County has experienced different communal conflicts, especially conflict over land allocation and possession. Continued efforts to bring peace by state and non-state actors have been elusive for different reasons. It was therefore important to establish the nature and extent of men and women's participation in resolution of conflicts experienced in the community. The study established that there is uneven participation between men and women in ADR processes within Kapsokwony Sub County for different reasons. There was a combination of factors that continue to perpetuate unequal participation of men and women in ADR process. These are culture, understood as existing traditional practices and customs that continue to support women exclusion, religious beliefs that a woman should be under a man authority, obeying him in everything including even when he does not want her to participate in any gathering that would resolve any community conflict or to play any role. Other factors include levels of women's literacy which would determine participation in ADR processes, In this, literacy is understood in terms of formal and informal education. Finally, as a result of conflicts, conflict resolution is considered as a role and responsibility of men rather than of women in most areas.

Objective of the Study

The study objective explains the levels of participation of men and women in resolving community conflicts using ADR mechanisms in Kapsokwony.

Research Question

To achieve to the study objective, the question put across was to know:

- i. What are the levels of participation of both men and women in resolving community conflict through ADR mechanisms in Kapsokwony?

LITERATURE REVIEW

Alternative Dispute Resolution mechanisms are usually considered an alternative to the courts. They can also be used as a colloquialism for allowing a dispute to drop or as an alternative to violence. According to Snyder and Stobbe (2011), ADR mechanisms cover a broad spectrum of processes ranging from formal proceedings involving a judge to private ones facilitated by a neutral third party. Whichever the setting, several core principles universally apply non-bias and impartiality of the neutral third party, confidentiality, guarantee of fairness and uninterrupted access to justice. Warner (2008) argues that these processes are governed by different rules, which in some cases may be set or influenced by parties involved. In designing an ADR intervention, practitioners consider both the ADR process to be adopted and the modality to be used in driving the intervention. Several different processes fall under the ADR umbrella, each having their specific benefits and drawbacks. The most widely used processes in ADR are mediation and arbitration.

In regards to gender equality in conflict resolution, Quinn (2009) studied the structure of the Haitian Truth Commission in incorporating gender issues to promote peace and resolve conflicts. The study reveals that women's participation led to reduction of conflicts. For women, ADR provides an attractive option to the formal justice system, which has been criticised for systemic bias against women, both in terms of its outcomes and its procedures (O'Connor, 2010). In terms of direct substantive bias, there are decreasing number of laws and decisions which discriminate against women directly. However, the problem which has been most recently identified is that the law, in its structure and content, may not consider the reality of women's lives.

According to Natalya (2012), report on South Africa shows that eight of the seventeen commissioners of the Truth and Reconciliation Commission were women. These eight female commissioners were largely responsible for the Commission's decision to hold several women-only hearings, which encouraged female participation. In the South African context, having female commissioners was an important measure in ensuring both an outward appearance of gender sensitivity and incorporating more gender sensitive measures in the internal structures of the commission. Indeed, the female commissioners often spent considerable time convincing their male counterparts on the importance of certain issues for women victims and advocating for certain measures to address them.

In summary, ADR mechanisms have been used since time immemorial to resolve community conflicts. They are acknowledged worldwide and recognized as important and inclusive mechanisms for quick and peaceful resolution of community conflicts compared to the formal judiciary system. Kwadwo (2013) refers to them as standard in contemporary African legislation. Supported by international and national frameworks, structures and institutions have been put in

place. A lot of efforts continue to be made worldwide to ensure that both men and women are equally part of the community peace building through the use of ADR mechanisms. In practice however, these efforts continue to face many challenges that need to be considered and addressed contextually.

Research Gaps

Alternative Dispute Resolution mechanisms help in creating an environment that fosters development, peace, and social justice amongst other positive values amidst community conflicts. The United Nations (2007) Declaration on the Rights of Indigenous People advocates for equal participation of men and women in the management of community conflicts. Participation of both men and women in ADR processes to resolve community conflicts in Kapsokwony Sub-county region is a field that studies have not adequately explored. This study hopes to contribute to existing literature on men's and women's participation in ADR for land disputes. The outcome of this study may be utilized to influence increased participation of women in ADR, within Kapsokwony Sub-county region. Additionally, the study's findings will add to the growing body of literature pertaining to the participation of both men and women in peace building within the Kenyan context. Lastly, the findings of this study form the foundation upon which future research can be done.

METHODOLOGY

The study was carried out in Kapsokwony sub-county, Bungoma County, Kenya. Guided by the Peace Research theory, Social Exclusion theory and theory of Participation, it used a mixed research approach and adopted a descriptive survey research design. The sample size for the research was 384 respondents. The respondents were selected using both probability and non-probability sampling techniques, notably through random and purposive sampling methods. Emphasis was put on the fact that the respondents were part of Nyumba Kumi system. Data was collected using three instruments, namely, questionnaire, interviews and Focus Group Discussion (FGD) guide. Data analysis was done using descriptive statistics, cross-tabulations and frequencies. Qualitative data was analysed thematically.

FINDINGS AND PRESENTATION

Before discussing the levels of men and women's participation in resolving community conflicts, the study analysis the different types of conflicts experienced in Kapsokwony sub-county, in Bungama County.

Types of Conflicts Experienced in the Community

Table 1: Types of Conflicts Experienced in the Community

	Yes		Total %	No		Total%
	Male	Female		Male	Female	
Land Conflicts	49 (24%)	83 (41%)	2(1%) 66%	19 (9%)	47 (23%)	5 (3%) 35%
Ethnic Conflicts	16 (8%)	40 (20%)	5 (2%) 30%	52 (25%)	90 (44%)	2 (1%) 70%
Family Conflicts	59 (29%)	118 (58%)	7 (3%) 90%	9 (4%)	12 (6%)	- 10%
Boundary conflict	39 (19%)	68 (33%)	7(4%) 56%	29 (14%)	62 (30%)	- 44%

Land Conflicts

The study sought to investigate whether the community of Kapsokwony had experienced land conflicts in the past five years. Out of 205 respondents, 134 (65%) said that the community had experienced land related disputes. In this group, 49 were male, 83 females and 2 respondents did not indicate their gender. They pointed out that the community has faced land related conflicts. The rest who was 71 (35%) had a contrary opinion. This group was composed of 19 males, 47 females and 5 respondents who did not indicate their gender. The analysis of the data therefore reveals that most respondents (65%) confirmed that the community had faced conflict over land over the past five years.

Regarding land related conflicts, Pamela* (O.I 6/6/2018) and majority who believed the community had experienced land conflicts in the past five years. She explained that,

...If we say that we do not have any conflicts within our community we will be obviously lying. First, Mt. Elgon is known as a volatile region where conflicts over land possession and ownership have taken place for many years (Pamela, O.I 6/6/2018).

Similarly, Andrew* (O.I, 6/6/2018) had this to say on land conflict,

...as the Chief of the location, people report different cases to me. For example, domestic issues, such as (wife battering), alcoholism, theft, defilement, conflict over land boundaries, just to name a few. This confirms that our community has experienced and continues to experience conflicts mainly over land (Andrew, O.I, 6/6/2018).

Analysis of information provided by these KIs confirm that Kapsokwony had experienced conflicts over land possession and ownership in the past five years, supporting therefore most respondents (65%) who were of the same opinion. The region surrounding Mount Elgon has experienced conflicts for several years as demonstrated by Ansobi (2011) and Smith (2014). According to Smith (2014), one of the most significant disputes that have been experienced in the Mount Elgon region is the rising of 2005 insurgency which saw many people, including women and children, lose their lives, relatives and property. In this respect, Simiyu (2008) argues that land

disputes are at the heart of the conflict in the wider region of Mount Elgon. While supporting Simiyu's (2008), Sage (2010) contends that, while there are other intervening factors, land disputes are a constant challenge in Kapsokwony.

According to Baker (2011) and Adebayo (2012), the root cause of land disputes, which are the major reasons why there is no peace in the region, can be traced to the colonial period. Bertrand and Haklai (2013) add that currently the problem is aggravated by how poorly the disputes have been managed by both the government and the local members. Notably, the region around Mount Elgon and the neighbouring Trans-Nzoia region constitute an area that is occupied by different communities. They include the Sabaot, Sebei, Bukusu, Ogiek, Sebei, and different sub-groups of the Kalenjin community (Mwakikagile, 2010). Baker (2011) rightly claims that, the presence of different communities and subgroups in the region reinforces the reason there is often a potential for new conflicts, especially disputes involving land.

The study findings are supported by research carried out in Mt. Elgon region, which confirm that land conflict is indeed at the heart of the conflict in the region. While there are several other contributing factors to the insecurity and displacement witnessed in the area since 1991, conflict over land has been constant (Ansobi, 2011). The study therefore established that the community of Kapsokwony had experienced conflicts over land ownership and possession in the past five years.

Ethnic Conflicts

The study sought to establish if the community had experienced any ethnic conflicts in the past five years. Findings reveals that 144 (70%) respondents (52 males, 90 females) indicated that the community had not experienced any ethnic conflicts. However, 61 (30%) respondents (16 males, 40 females and 5 who did not indicate their gender) were of the contrary opinion.

Participants in the FGDs and majority of respondents and confirmed that Kapsokwony community had not experienced any ethnic conflicts in the past five years. They echoed the view of Wanjala* (O.I 6/6/2018) who explained that,

...the only conflict that took an ethnic dimension was related to struggle over land allocation and possession that opposed Ndorobo and Sabaot and became so violent and deadly. The conflict covered the entire Mt. Elgon region to the extent that each ethnic group had to form its militia group for self-defense (Wanjala, O.I 6/6/2018)*

Jacquie (O.I 6/6/2018) corroborated on the same by notion that,

Since the intervention of the army in 2007 under Okoa Maisha operation (operation save lives), we cannot talk of any ethnic conflict in the entire region in general and in Kapsokwony in particular. Besides, with the signing of Mabanga peace Agreement, all ethnic groups have agreed to coexist peacefully in the region. We cannot talk of any ethnic conflict for the moment (Jacquie, O.I 6/6/2018).

Observably, from the findings it was clearly indicated that in the past five years, Kapsokwony had not experienced any ethnic conflicts. This was attributed to the signing of the Mabanga peace agreement which required the communities to live in harmony.

On the other hand, the study showed that there was quite a significant number (61%) of respondents who indicated that there were ethnic conflicts in the region. Along the same vein, (Njogu, 2010) argues that political violence results from the ability to exploit ethnic connections in societies to the extent that awareness is heightened about perceived inequalities in the distribution of power and resources. He further argues that once mobilized, politicized violence that has an ethnic dimension tends to escalate quickly. Most significantly, they assert that ethnicity is not a problem, but it is the exploitation of it that brings about civil strife.

The Waki Commission in its examination of the ways in which political violence manifested itself in Kenya resolved that the victims and perpetrators of the violence were determined on the basis of ethnicity (Commission of Inquiry into Post-Election Violence, (2008). In concurrence with (Njogu, 2010), the Waki Commission averred that the ethnic violence escalates and reinforces ethnic cleavages in the society. (Sambanis, 2001) observes that the prevalence of what is termed “ethnic conflict” in which over seventy percent (70%) were conflicts over “identity” with the genocide in Rwanda as a stark example of the devastation possible.

The study therefore holds that the community of Kapsokwony had had mild ethnic conflicts in the past five years which most of the people in the community may not have been aware of. This was associated with the Mabanga Peace Agreement signed in October 2011. The composition constituted indigenous councils of elders representing the communities involved, facilitated by some Kenyan non-governmental organizations (NGO's). The document marked a pivotal point within the local transitional justice (TJ) process. The agreement was to concretize that there would not be a repeat of violence in the build up to 2017 elections. The council of elders therefore were to discuss strategies to stem this disquiet and reaffirm their commitment to the Mabanga Peace Accord and strategize on its implementation. It set up a plan of inter-community cooperation to be commenced in its aftermath, hence providing a framework for post-conflict management addressing issues of inter-community reconciliation within the context of prolonged land dispute.

Family Conflicts

Regarding family conflicts, 177(90%) respondents (59 males and 118 females) confirmed that this type of conflicts was common. Only 21 (10%) respondents (9 males and 12 females) had a contrary opinion. Although the study did not explore this angle, land disputes can be inter-family and intra-family, where spouses or siblings fight over its ownership and possession. Besides, there are very few cases worldwide where conflicts occur singularly. It is not a surprise then that in the presence of land disputes, family related conflicts would also be in the community.

Jacquie* (O.I 6/6/2018) explained that family conflicts may take different forms. According to her:

... Apart from land and boundaries' conflicts, which are the main ones, we do experience others at different levels, be it at the sub county, location, sub location, village and Nyumba Kumi levels that people bring up for resolution. In most cases, such conflicts are generally complex. Among these are notable cases of thefts involving livestock, debt repayment; domestic/marital disputes for example wife battering, though this is lately decreasing significantly (Jacquie O.I 6/6/2018).*

The opinion of participants of FGDs (8/6/2018) supported Jacquie's view. They explained that, *Family conflicts can be broadly understood in terms of fighting between husband and wife, alcoholism, husband laziness, use of drugs, theft of chickens and theft of one's possession. They may be inter or intra family or any act that negatively affects members in the community. In most cases, these conflicts are mostly resolved through the area chief or they are also nowadays being resolved through Nyumba Kumi structures. Most of them do not need any police involvement.*

As shown, the study is in line with most respondents (90%) who overwhelmingly confirmed (Table 1) that family conflicts broadly understood are experienced on daily basis in Kapsokwony.

Family conflict can lead to long, tangled, painful conflicts that may lead to things like divorce or domestic violence (Ansobi, 2011). Family conflict manifests itself when violence is used to resolve disputes (Ansobi, 2011). The study indicated that conflict in a family was because of lack of trust, drunkenness, and lack of dialogue, lack of respect, joblessness, and idleness. It manifested itself in form of fights, quarrels, spouse battering, child abuses and child molestation. It also resulted to a bad atmosphere in the home, separation, and divorce.

Concern over the relationship between family life and delinquency has been heightened by reports of widespread abuse and fatality. Cases of abuse and neglect have been found in every social class and racial group and are bound to recur to individuals who suffered or witnessed family conflict (Ansobi, 2011). Parents who themselves suffered abuse as children tend to abuse their own children (Matejevic, Jovanovic, & Lazarevic, 2014). Thus, isolated, and alienated families tend to become abusive. This supported by the FGD discussions conducted in Kapsokwony.

Zraick (2018) would not agree more with them by noting that hardly a day goes by without stories of family related dispute appearing in the local newspapers; unfortunately, more often than not, these conflicts lead to homicides or suicide; with women as the most likely victims. The study therefore notes that there were daily occurrences of family conflicts in Kapsokwony.

Conflict Over Boundaries

The last type of conflict that the study considered was boundary related (Table 1). Majority of the respondents confirmed that the community had also faced boundary conflicts. This group consisted of 114 (56%) respondents. The category was made up of 39 males, 68 females and 7 who did not indicate their gender. Ninety-one (44%) (29 males and 62 females) disagreed with the view of the majority.

The view expressed by FGDs participants (FGD 8/6/2018) supported the assertion when they explained that,

Conflicts over boundary remain the most prevalent in the community because they are related to land ownership and possession; in Kapsokwony land ownership and possession remain a daily struggle for the simple reason that the community relies on farming for its livelihood. Everyone wants to own a piece of land even through illegal means.

In furtherance Mary* (O.I 6/6/2018) was of the view that,

As a chief, I do receive so many cases of conflict over boundary. They mostly involve inter-family conflict where members of the same family are fighting over land sharing. These cases are generally very complex to resolve (Mary O.I 6/6/2018).*

The study underlines the following points which are pertinent to the study as follows; first, conflicts over boundaries are related to land ownership and possession. Land is therefore, seen as a resource which the members of the communities in Kapsokwony would like not only to possess but also own; that is have control over. The study notes that this is largely because the people in Kapsokwony rely on farming for their livelihood. Thus, as a way of security or improving their livelihood, community members make every imaginable effort to have control over land as much as possible. Secondly, most of the conflicts over boundaries happen between family members. And as explained by the chief, these conflicts may be because of sharing family land between siblings. The study notes the fact that the community of Kapsokwony faced conflicts over boundary due to the community's over-reliance on land and farming as the main source of income and livelihood.

Mount Elgon has a long history of boundary conflicts. According to the study, it was clear that pastoralists do not respect boundaries. This has resulted to cattle rustling (involving the Sabaot and their Sebei cousins from Uganda, the Pokot, and the Karamojong). The Sabaot of Mt Elgon also wanted to reclaim their land from migrants by evicting them. Many non-Sabaot, in particular Bukusu, had moved into the area in search of fertile agricultural land, which they purchased from the Sabaot, others came from the neighbouring TransNzoia District and purchased land and lived while others settled illegally along forest fringes (Simiyu, 2008).

The study observed that most of the residents of Kopsiro (Boarders Kapsokwony) were still displaced and did not have stable abode. What happened was that since 2008 when the government of Kenya facilitated a military operation in the area, most of those residents that were displaced during that period had not been fully resettled. The issue of boundaries has not yet been fully resolved. They, therefore, reside in market centres in concentrated settlements comprising of people mainly from the same clan. Although land and political issues have been discussed, poor governance has not. Respondents asserted that the government through the local administration has not been fair to the two clans. Instead, they have been biased whenever they intervened, and they only got involved in crisis management when the situation was out of hand. The government was also blamed for mismanaging the initial land allocation that has created the recurrent conflicts over time.

Level of men and women's participation

Following Pretty's (1995) seven-step of participation, very low level participation or co-option is understood in terms of information giving where women participation is just a pretence with men representatives (clan elders) on official committees who are not elected but automatically appointed as a required by culture and tradition. A low-level participation of is hereby understood as in terms of participation by consultation whereby women participate by being consulted or by answering questions. Clan elders define problems and information gathering processes, and so

control analysis. Such a consultative process does not concede any share in decision-making, and clan elders are under no obligation to take on board people's views being consulted.

Passive level of participation is understood in terms of material incentives, whereby women participate by contributing resources such as labour, in return for material incentives (e.g., food, cash). It is very common to see this called participation, yet people have no stake in prolonging practices when the incentives end.

High level of participation or interactive participation is understood in terms of functional interactive whereby both men and women participate in joint analysis, development of action plans and formation or strengthening of local structure for conflict resolution. At Participation at this level is seen as a right, not just the means to resolve community conflicts. The process involves interdisciplinary methodologies that seek multiple perspectives and make use of systemic and structured learning processes. As groups take control over local decisions and determine how available resources are used, so they have a stake in maintaining local structures or practices

Finally, a very high-level participation is understood in terms of self-mobilization, decision making and leadership control. Men and women participate by taking initiatives independently of external factors such as culture and traditions. They develop contacts with external institutions for resources and technical advice they need but retain control over how resources are used. Self-mobilisation can spread if governments and NGOs provide an enabling framework of support. Such self-initiated mobilisation may or may not challenge existing distributions of wealth and power.

Level of women participation in resolution of conflict using ADR mechanisms

Table 2: Level of women participation in resolution of conflict using ADR mechanisms

		Gender		Total	Percent		
		Men	% %			Women	
Level of women participation in resolution of conflicts using ADR mechanisms	Very low	25	11%	49	25%	74	36%
	Passive	32	15%	54	27%	86	42%
	High	5	3%	20	9%	25	12%
	Very high	6	3%	6	3%	12	6%
	I don't know	0		1		1	1%
	No response					7	3%
Total		68		130		205	100%

According to the study findings 74 (36%) respondents (25 males and 49 females) were of the opinion that women participation was still very low. 86 (42%) respondents (32 males and 54 females) believed their level of participation was passive, 25 (12%) respondents (5 males and 20 females) were of the opinion that the level of women's participation was high, 12(6%) respondents (6 males and 6 females) said that it was very high, while 1 female (1%) respondent did not know and 6 did not answer the question.

The study noted that women participation in conflict resolution through ADR was passive in Kapsokwony. Therefore, women of Kapsokwony participated in conflict resolution in terms of providing resources such as labour, providing and distributing food, and other material incentives. This implied that they neither voiced their concerns in ADR deliberations nor did they have control over the deliberations. Thus, there were conflict resolution activities that women did participate in while there were others they did not. It is important to mention that leadership and participation in conflict resolution in Kapsokwony depend on where conflict is resolved. Conflict can be resolved by elders of the clan, by a chief or at Nyumba Kumi level. The level of men and women participation is different when a conflict is resolved elders of the clan than when it is resolved by a woman chief or by a women head of Nyumba Kumi. When conflict is resolved by a woman chief, she is totally in control in term of convening, leading, and making decisions. On the contrary, the situation is different when a conflict is resolved at the clan level which remains male dominated. The following table establish roles and responsibilities of both men and women in resolving conflict at the clan level.

Men and women roles in conflict resolution

Table 3: Men and women roles in conflict resolution

Activity	Person in charge
Convening of meeting	Men (head of the clan)
Conflict parties	Men and women
Witnesses	Men and women
Provision of resources (labor, water, food)	Women
Leadership and control over conflict resolution process	Men (the head of the clan)
Decision making	Men
Enforcement of decisions	Men (head of the clan and his team)

The view of the study was that despite the increasing involvement of women in resolution of conflicts, men are still the ones taking the lead in the entire process in terms of convening, organising, leading the discussions, decision making and providing a way forward on the measures to be taken.

Jane* (KI, 6/6/2918) was of the view that,

... it is only in the case where a chief or assistant chief is a woman that she can fully be in charge of convening, organizing, leading the discussion and making decisions and its implementation. As for the rest the process is still led by men in our society. Even today, women are mostly needed when it has to do with providing services such as serving people, and other material needs such as serving tea and food at the end of the process...unless they are critical in the process, they generally sit down and listen to the proceedings (Jane KI, 6/6/2918).*

Gregory* (KI 7/6/2018) was of the view that,

...in many cases a woman is left the position of providing information, especially when she is a witness, or she is to provide her version of the story when she is victim; while in other cases,

women were completely ignored, notably such in the case of defilement...elders make a decision by just consulting the father of the girl (Gregory KI 7/6/2018).*

Finally, the view of participants who attended male FGD (8/6/2018) were of the view;

...women participation is increasing to high level at Nyumba Kumi level where some of them are given a responsibility to lead people. They can convene meetings, lead the discussion and influence decision making and implementation.

DISCUSSIONS OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

Discussions of Findings

From peace research theory perspective, the study confirmed the pervasive nature of conflicts in Kapsokwony. Context and conflict analysis using peace research theory specifically confirmed the existence of conflicts over land, boundary, family conflicts and other different forms of conflicts that can be categorized under family conflicts that had occurred in Kapsokwony in the past five years. Findings, however, indicated that the community had not experienced any ethnic conflict in the past five years.

As far as the levels of men and women's participation in resolving conflicts in Kapsokwony using ADR mechanisms are concerned, the processes remain under men's leadership and women participation was mainly passive where their participation was limited to providing services such as food, tea and other necessary material when needed. It was noted that women were called upon as witnesses or to provide information without being involved fully in the discussions. Even in instances where women voices would be important like in the cases of defilement, elders would bring the father of the girl and thus this led to poor integration of the needs of women in the resolution of the conflict.

The study established that power was a factor that influenced the level of participation. Consequently, the level was simply established to be that of neutral/passive to a very high participation level of women participation in ADR mechanism. However, those that were participating at high levels in ADR were few and their power was invested in the office they held. Furthermore, the study established that in the *Nyumba Kumi* structure, women level of participation in conflict resolution was increasing from neutral/neutral to a higher level of participation where they fully participated in leading and influencing decisions on resolution of conflicts. This can be explained because the nature of the *Nyumba Kumi* structure allows for everyone to be actively involved in ensuring safety and welfare of the ten households' members. Urban Thinkers Campus (2015) confirms that women are involved in ensuring safety in urban and rural settlements mainly through the *Nyumba Kumi* Initiative in which they are part of the leadership committee.

On the other hand, women's level of participation also increased when they had a very important role to play in term providing necessary information needed in the course of a conflict resolution process. The level of women therefore rose from neutral/passive to a level of functional interactive. On the level of men and women participation in ADR process, the study established that in Kapsokwony, both men and women had a role to play in conflict resolution through ADR

processes as acknowledged by 88% of respondents. Both men and women respondents in FGDs do also acknowledge the two genders have a role to play in conflict resolution. However, in participating in ADR process of conflict resolution, the study established that except in instances where a woman was in a position of power such as being a chief or assistant chief, their level of participation was passive/neutral. As for the conflicts resolution that took place at *Nyumba Kumi* level, men and women did not participate equally in ADR process as the men still took lead in decision making. Generally, it can be deduced that the level of women participation in ADR process remains passive. These findings confirm the application of social exclusion theory where women participation is passive, or they are still excluded from the decision-making process related to resolution of community conflict. Social and cultural multidimensional sources and processes of deprivations continue to perpetuate social exclusion of women in decision making related to resolution of conflicts through ADR (Antonia, 2012).

The study however, established cases where women participation in ADR process was very high, such as the case where the women held power and authority as a result of their position as location chiefs or assistant chief and also through the newly established *Nyumba Kumi* structure where women were fully involved in welfare and stability of the ten households' members. This has been confirmed by men respondents. Where *Nyumba Kumi* structures are led by women, they are fully in charge of convening meetings to resolve local conflicts. These cases notwithstanding, the level of women's participation in ADR process was still passive and to some extent low. Men do not disagree on this finding. They acknowledge that conflict resolution at clan level is male dominated.

Conclusions

Despite the continued trend of passive level women participation in ADR conflict resolution processes, the study showed an encouraging trend in terms of women participation in resolution of conflict using ADR in Kapsokwony. Both women and men in the region acknowledge the importance of involving women in conflict resolution and even appreciate it, especially at the level of *Nyumba Kumi* and in cases where there is a woman chief. This rise of involvement was also encouraging compared to the traditional way whereby conflict resolution remained highly male dominated to the extent that women were fully excluded from the process. The situation in Kapsokwony is improving in the sense that people are not only acknowledging the role of both men and women in resolving conflicts as being inclusive, but also that women participation has tremendously improved with women taking positions of authority with their involvement through *Nyumba Kumi* structure. It is the view of the study that multidimensional factors continue to sustain social exclusion of women in ADR process, confirming therefore its application under this study.

Recommendations

To work towards equal participation of men and women in ADR processes, the study proposes the following recommendations:

- i. The Kenya constitution 2010 has recognized the relevance of ADR as conflict resolution mechanisms at different levels. Recognition is not enough. The study therefore recommends that the National and County governments establish viable ADR formation

structures which are gender inclusive as well as guidelines or standards to be followed in each ADR process.

- ii. The study also recommends that parties who opt to resolve their disputes through ADR ought to have access to legal advice to prevent negative effects of power imbalance.
- iii. In order to contribute to equal participation of men and women in resolution of community conflicts, the study recommends that Bungoma County Gender Technical Working Group works in partnership with the civil society to implement a comprehensive program on civic education. This program should aim to reduce the negative impacts of culture on women participation in ADR mechanisms and contribute to raising awareness of both women and men on the importance of gender inclusivity in ADR mechanisms.

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